

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

GEORGE GUTIERREZ, JUAN MONTENEGRO, NOEL BAQUEDANO, WILLIAN RODRIGUEZ, ANGEL RODRIGUEZ and HAROLD VENTURA, on behalf of themselves and others similarly situated,

Plaintiffs,
-against-

DAVINCI'S RESTAURANT & LOUNGE, CHRISTINA BOUZALAS, GEORGE BOUZALAS, JOSE BONILLA, JAVID ALI, and ABC CORP. d/b/a DAVINCI'S RESTAURANT & LOUNGE,

Defendants.

INDEX NO.: 20-cv-5380
(GRB)(AKT)

(PROPOSED) PRE-TRIAL ORDER

The below submission is submitted by Plaintiffs' as Defendants have not yet provided any comments to the Joint Pre Trial Order nor filed their own Pre-trial Order.

I. THE FULL CAPTION OF THE ACTION

The full caption of the action is set forth above.

II. IDENTIFICATION OF TRIAL COUNSEL

For the Plaintiff:

Marcus Monteiro, Esq.
mmonteiro@mflawny.com
91 N. Franklin Street, Suite 108
Hempstead, New York 11550
Telephone: (516) 280.4600

For the Defendants:

Stephen C. Dachtera, Esq.
RKrome68@yahoo.com
101-05 Lefferts Boulevard
Richmond Hill, NY 11419
Telephone: (718) 849-7272

III. STATEMENT AS TO SUBJECT MATTER JURISDICTION

Plaintiff asserts that this Court has original and pendant subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1337 due to Plaintiffs' claims under FLSA, and supplemental jurisdiction over the New York state law claims pursuant to 28 U.S.C. § 1337. Venue is proper under 28 U.S.C. § 1331.

IV. STATEMENT AS TO CLAIMS AND DEFENSES

1. Plaintiffs were employees of Defendants.
2. Defendants were employers of Plaintiffs.
3. Plaintiffs were paid a weekly rate in cash.
4. Plaintiffs worked over 40 hours in a work week but were not paid minimum or overtime pay.
5. Plaintiffs worked more than 10 hours in a workday and were not paid spread of hours pay.
6. Defendants never provided Plaintiffs with wage notice with their pay.
7. Defendants never provided Plaintiffs with a wage notice at the time of their employ.
8. Defendants paid Plaintiffs in cash, violating 26 S. code §7434.

V. STATEMENT AS TO THE MANNER OF TRIAL

1. This matter is to be tried by a jury. Plaintiffs estimate that they will need no more than 4 days to present their case in chief at the trial of this matter. Defendants will provide a counter statement to the Court.

VI. STATEMENT AS TO CONSENT REGARDING MAGISTRATE JUDGE

1. Plaintiffs consent to trial by the Magistrate Judge.

VII. STATEMENT AS TO STIPULATED FACTS

1. George Bouzalas owned and operated a restaurant known as Davinci's Restaurant and Lounge located at 118 Long Beach Road, Island Park, NY 11558 ("Davinci's") from 2014 to August 26, 2019.
2. Christina Bouzalas owned and operated a restaurant known as Davinci's Restaurant and Lounge located at 118 Long Beach Road, Island Park, NY 11558 from 2014 to August 26, 2019.

3. Jose Bonilla owned and operated a restaurant known as Davinci's Restaurant and Lounge located at 118 Long Beach Road, Island Park, NY 11558 from 2014 to August 26, 2019.
4. Javed Ali owns and operates a restaurant known as Davinci's Restaurant and Lounge located at 118 Long Beach Road, Island Park, NY 11558 from 2014 to August 26, 2019.
5. George Bouzalas, Christina Bouzalas, Jose Bonilla and Javed Ali managed the day to day operations of Davinci's during each their ownership periods.
6. George Bouzalas, Christina Bouzalas, Jose Bonilla and Javed Ali set the wages of employees, made employee schedules and directed all employees duties Davinci's during each their ownership periods.

VIII. STATEMENT REGARDING WITNESS TESTIMONY

The witnesses listed below may be called at trial. No witnesses not identified herein shall be permitted to give testimony in either party's absent good cause shown.

Jose Gutierrez. He possess knowledge and information regarding the factual allegations asserted herein, the hours he worked and wages paid, the business operations of Defendants, the ownership of Defendants and the wage practices of Defendants.

Juan Montenegro. He possess knowledge and information regarding the factual allegations asserted herein, the hours he worked and wages paid, the business operations of Defendants, the ownership of Defendants and the wage practices of Defendants.

Noel Baquedano. He possess knowledge and information regarding the factual allegations asserted herein, the hours he worked and wages paid, the business operations of Defendants, the ownership of Defendants and the wage practices of Defendants.

William Rodriguez. He possess knowledge and information regarding the factual allegations asserted herein, the hours he worked and wages paid, the business operations of Defendants, the ownership of Defendants and the wage practices of Defendants.

Angel Rodriguez. He possess knowledge and information regarding the factual allegations asserted herein, the hours he worked and wages paid, the business operations of Defendants, the ownership of Defendants and the wage practices of Defendants.

Defendants have not yet provided their portion of this consent statement and will do so under separate cover.

IX. TRIAL EXHIBITS

1.	Plaintiffs' Complaint
2.	Plaintiffs' Amended Complaint
3.	Plaintiffs' Second Amended Complaint
4.	Plaintiffs' Third Amended Complaint
5.	Bell Blvd. Delights Corp. 2017 1120S Taxes (24 pages)
6.	Bell Blvd. Delights Corp. 8879-S 2019, 2018, 2017 (6 pages)
7.	Bell Blvd. Delights Corp. 2018 taxes (31 pages)
8.	Bell Blvd. Delights Corp. 2019 taxes (39 pages)
9.	LB Pizza LLC 2020 Taxes (40 pages)
10.	Bell Blvd. Delights Corp. EFile 2018
11.	Christina Bouzalas Response for Request for Admissions
12.	George Bouzalas Response to Request for Admissions
13.	Jose Bonilla Response to Request for Admissions
14.	Christina Bouzalas Response to Interrogatories
15.	George Bouzalas Response to Interrogatories
16.	Jose Bonilla Response Response to Interrogatories
17.	Bell Blvd. NYS-45 returns 2018 and 2019 (28 pages)
18.	NYS-45 (blank)(2 pages)
19.	Plaintiffs for Request for Admissions to Javed Ali
20.	Pay documents provided by Defendants (32 documents)

Dated: November 15, 2022

Respectfully submitted,

By: /s/

Marcus Monteiro, Esq.
MONTEIRO & FISHMAN LLP
mmontero@mflawny.com
91 N. Franklin Street, Suite 108
Hempstead, New York 11550
Telephone: (516) 280.4600
Attorneys for Plaintiffs

By: not signed

Stephen C. Dachtera, Esq.
Law Office of Stephen C. Dachtera
RKrome68@yahoo.com
101-05 Lefferts Boulevard
Richmond Hill, NY 11419
Telephone: (718) 849-7272
Attorneys for Defendants